

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT CLEVELAND**

DEBORAH DIDONATO-KERNEY  
EXECUTOR OF THE ESTATE OF  
CAROL M. RICHEY, DECEASED,

Plaintiff,

VS.

SUNRISE SENIOR LIVING SERVICES,  
INC., et al.,

Defendants.

Case No.

Judge

## NOTICE OF REMOVAL

\* \* \*

Sunrise Senior Living Services, Inc. and Solomon Holdings I-The Triangle, LLC, through their attorneys, Mark D. Meeks, Elizabeth D. Wilfong, and the law firm of Anspach Meeks Ellenberger LLP, hereby remove this action from the Court of Common Pleas of Cuyahoga County, Ohio to the United States District Court for the Northern District of Ohio, Eastern Division at Cleveland. In support of the Notice of Removal, Defendants state the following:

1. On February 21, 2014, Plaintiff, Deborah Didonato-Kerney, Executor of the Estate of Carol M. Richey, [hereinafter “Plaintiff”], filed a Complaint [Attached as Exhibit A] for a civil action in the Common Pleas Court of Cuyahoga County, Ohio, case number CV 14 822330. Plaintiff named Sunrise Senior Living, Inc., Sunrise Senior Living, Inc., d/b/a Brighton Gardens of Westlake, and Solomon Holdings I- The Triangle, LLC as Defendants. Contemporaneous with the filing of her Complaint, Plaintiff filed an Affidavit of Merit [Attached as Exhibit B]. Pursuant to Ohio Civ. R. 10(D)(2), a complaint that contains a medical claim shall

include an affidavit of merit relative to each defendant named in the complaint for whom expert testimony is necessary to establish liability.

2. On March, 31, 2014, Plaintiff served an Amended Complaint substituting Sunrise Senior Living Services, Inc. as a Defendant in place of the incorrectly named Defendant, Sunrise Senior Living, Inc. [Attached as Exhibit C].

3. Plaintiff served Solomon Holdings I- The Triangle, LLC on March 7, 2014 [Attached as Exhibit D].

4. Sunrise Senior Living Services, Inc. has not yet been served with the Amended Complaint. However, counsel for Defendants has agreed to accept service on its behalf.

5. This Court has original jurisdiction over this civil action based on 28 U.S.C. §1332 (Diversity Jurisdiction) and, therefore, it is a civil action that may be removed pursuant to 28 U.S.C. §1441.

6. Diversity jurisdiction exists because all the appropriately named parties are citizens of different states. Plaintiff is a citizen of the State of Ohio. Defendants are citizens of the States of Delaware, Georgia and Virginia.

7. Defendant Solomon Holdings I – The Triangle, LLC is a limited liability company incorporated under the laws of the State of Georgia with its principal place of business in Georgia. The sole member of Solomon Holdings I – The Triangle LLC is Solomon Senior Living Holdings, LLC, a Georgia limited liability company. The sole member of Solomon Senior Living Holdings, LLC is an individual, who is a resident and citizen of the State of Georgia.

8. Sunrise Senior Living Services, Inc. is a Delaware Corporation with its principal place of business in Virginia.

9. Plaintiff's Amended Complaint asserts causes of action for medical negligence and specifically demands an amount in controversy in excess of \$50,000.00. Based on the allegations of the complaint Defendants believe, and therefore aver, that the amount in controversy will exceed \$75,000.00, exclusive of interest and costs.

10. The Complaint, Amended Complaint, and Affidavit of Merit constitute all process, pleadings, and orders served on or received by the Defendant in this action. A copy of those documents are attached as Exhibits, pursuant to 28 U.S.C. §1446(a).

11. Defendants' Notice of Removal is timely filed within thirty days of the date Defendants or their agents received the Summons and Complaint.

12. This Court is the proper venue for removal because Cuyahoga County, Ohio is located within the United States District Court for the Northern District of Ohio, Eastern Division at Cleveland.

15. Pursuant to 28 U.S.C. §1446(d), Defendants will serve the Notice of Removal on Plaintiff and will file a copy of the Notice of Removal with the Common Pleas Court of Cuyahoga County, Ohio, thereby effecting the removal and staying the State court proceedings.

WHEREFORE, Defendants give notice of the removal of the State court action pending against them in the Common Pleas Court of Cuyahoga County, Ohio bearing Case No. CV 14 822330 which, upon receipt of a copy of this Notice of Removal, shall proceed no further.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

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**CERTIFICATE OF SERVICE**

This certifies that a copy of the foregoing NOTICE OF REMOVAL has been filed on this 3<sup>rd</sup> day of April, 2014, by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

This will also certify that on this 3<sup>rd</sup> day of April, 2014, a copy of the foregoing NOTICE OF REMOVAL was served via regular U.S. Mail upon:

Richard W. Dunson  
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*Counsel for Plaintiff*

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By: /s/Elizabeth D. Wilfong

*Attorneys for Defendants*